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9	BEFORE THE BOARD OF REGISTERED NURSING
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	
12	In the Matter of the Acquisation Against:
	in the Matter of the Accusation Against.
13	FE ISAAC WEBSTER 3747 Vista Campana South #33 ACCUSATION
14	Oceanside, CA 92057
15	Registered Nursing License No. 609021
16	Respondent.
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18	. Complainant alleges:
19	PARTIES
20	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22	of Consumer Affairs.
23	2. On or about November 8, 2002, the Board of Registered Nursing issued Registered
24	Nursing License Number 609021 to Fe Isaac Webster (Respondent). The Registered Nursing
25	License was in full force and effect at all times relevant to the charges brought herein and will
26	expire on April 30, 2012, unless renewed.
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
- 6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

REGULATORY PROVISIONS

8. Title 16, California Code of Regulations, section 1442, provides:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the

nurse knew, or should have known, could have jeopardized the client's health or life.

9. Title 16, California Code of Regulations, section 1443, provides:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

10. Title 16, California Code of Regulations, section 1443.5, provides:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

- (1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.
- (2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.
- (3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.
- (4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.
- (5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.
- (6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Gross Negligence)

- 12. Respondent is subject to disciplinary action for unprofessional conduct under section 2761(a)(1) of the Code within the meaning of California Code of Regulation section 1442, in that Respondent was grossly negligent when she failed to exercise the ordinary precaution in caring for her patient. The circumstances are as follows:
- a. Respondent was employed as a charge nurse in the Psychiatric Unit at Palomar Pomerado Hospital in Poway, California. A.F., a 70 year old female, was admitted as a patient to Pomerado on February 21, 2009. A.F. had a history of severe Alzheimer's Dementia with Behavior Disturbance. She was transported from her assisted living facility, with aggressive and combative behaviors and was admitted to Pomerado on an involuntary legal hold, for being a danger to herself. During the course of her hospitalization, A.F. displayed periodic aggressive and combative behaviors towards the nursing staff, such as hitting, kicking, screaming, and striking out. A.F. also received periodic doses of emergency medication to calm her down.
- b. On March 1, 2009, Respondent was assigned to A.F.'s care. Respondent attempted to bathe A.F. with the assistance of four nursing staff members. Because A.F. struggled, Respondent held A.F. down in an attempt to bathe her. Respondent then yelled, "you stink, you stink" to A.F. Respondent later admitted to using the word "poo poo" when describing the patient's odor. One of the nurses reported that Respondent acted rough towards A.F. and that she saw Respondent pull A.F.'s arm and hold it tightly, and then punch A.F. "with a closed fist on the left side of her face." Another nurse reported that she saw Respondent's "right hand and a fist on the patient's cheek," but she did not see a hitting motion. A different nurse stated that she saw Respondent's "fist lay on [the] patient's left face," but did not see pressure on the face. All of the nurses reported that Respondent was acting rough towards A.F. and that they told Respondent to "relax and calm down."

1 2 3 4 5 6 7 incorporated herein by reference. 8 9 14. 10 11 incorporated herein by reference. 12 13 14 15 16 Isaac Webster; 17 2. 18 19 Code section 125.3; 20 3. 21 22 23 24 <u> Eflesio</u> DATED: 25 26 27 28

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Incompetence)

Respondent is subject to disciplinary action for unprofessional conduct under section 2761(a)(1) of the Code within the meaning of California Code of Regulation sections 1443 and 1443.5, in that Respondent was incompetent in failing to exercise the degree of learning, skill, care and experience ordinarily needed to work with her patient, as is set forth in paragraph 12,

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

Respondent is subject to disciplinary action under section 2761(a) of the Code in that Respondent's actions constituted unprofessional conduct, as is set forth in paragraph 12,

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nursing License Number 609021, issued to Fe
- Ordering Fe Isaac Webster to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions
 - Taking such other and further action as deemed necessary and proper.

ER. BAILEY, M.ED., RN Interim Executive Officer Board of Registered Nursing

Department of Consumer Affairs

State of California Complainant

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